

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

|                                       |   |                                   |
|---------------------------------------|---|-----------------------------------|
| -----                                 | X |                                   |
|                                       | : |                                   |
| INNOVATIVE CUSTOM BRANDS INTL., INC., | : | Civil Action No. 04 CV 2937 (RJH) |
|                                       | : |                                   |
| Plaintiff,                            | : | <u>NOTICE OF MOTION</u>           |
|                                       | : |                                   |
| -against-                             | : |                                   |
|                                       | : |                                   |
| SOLE CITY, INC., SOLOMON SAFDEYE,     | : |                                   |
| ALAN KANDALL, JEFFREY BERNSTEIN and   | : |                                   |
| MARC DOLCE,                           | : |                                   |
|                                       | : |                                   |
| Defendants.                           | : |                                   |
|                                       | : |                                   |
| -----                                 | X |                                   |

**PLEASE TAKE NOTICE**, that upon the annexed Affidavit of Adam M. Cohen, sworn to May 26, 2004, and the exhibits annexed thereto, the accompanying Memorandum of Law, and upon all prior proceedings heretofore had herein, the defendants Sole City, Inc., Solomon Safdeye and Alan Kandall (collectively, the “Defendants”), shall move this Court pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, before the Honorable Richard J. Holwell, at 500 Pearl Street, Courtroom 17B, New York, New York 10007, at a date and time to be determined by the Court, for an order dismissing the complaint of plaintiff Innovative Custom Brands Intl., Inc.

(“Plaintiff”) pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief may be granted.

Dated: New York, New York  
May 27, 2004

KANE KESSLER, P.C.

By: s/Adam M. Cohen  
Adam M. Cohen (AMC-9918)  
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